

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1141
92ND GENERAL ASSEMBLY

Reported from the Committee on Pensions and General Laws, March 4, 2004, with recommendation that the Senate Committee Substitute do pass.

4165S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 245.015, 245.060, 245.095, and 246.305, RSMo, and to enact in lieu thereof four new sections relating to levee districts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 245.015, 245.060, 245.095, and 246.305, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 245.015, 245.060, 245.095, and 246.305, to read as follows:

245.015. The owners of a majority of the acreage in any contiguous body of swamp, wet or overflowed land or other property in the nature of individual or corporate franchises in this state, or land subject to overflow, wash or bank erosion, [situate] **located** in one or more counties or in a third or fourth class city, town, or village in this state or in any city [in this state under sixty thousand population operating under a special charter], **town, or village in this state not located within a county with a charter form of government and with more than two hundred fifty thousand inhabitants but less than three hundred fifty thousand inhabitants**, may form a levee district for the purpose of having such land and other property reclaimed and protected from the effects of overflow and other water, for sanitary or agricultural purposes, or from the effect of wash or bank erosion, or when the same may be conducive to the public health, convenience or welfare, or of public utility or benefit, by levee, or otherwise, and for that purpose they may make and sign articles of association in which shall be stated: The name of the district, and the number of years the same is to continue; the boundary lines of the proposed levee district; the names as listed on the county assessor's records of the owners of land or other individual or corporate franchise property in [said] **such** district, together with a plat of the district showing the lands to be covered in the district; [said] **such** articles shall further state that

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

the owners of real estate and other such property within [said] **the** district whose names are subscribed to [said] **such** articles are willing to and do obligate themselves to pay the tax or taxes which may be assessed against their respective lands or other property to pay the expense of organizing, and of making and maintaining the improvements that may be necessary to effect the reclamation or protection of [said] **such** lands or other such property, so formed into a levee district, and to reclaim and to protect the same from the effects of overflow and other water, or from bank erosion or wash, and [said] **the** articles of association shall contain a petition praying that the lands and other property described therein be declared a levee district under the provisions of this law. After [said] **the** articles of association and petition have been so signed the same shall be filed in the office of the circuit clerk of the county in which such lands and other property are [situate] **located**; or, if such lands and other property be composed of tracts or parcels [situate] **located** in two or more different counties then in the office of the clerk of the circuit court of the county in which [there are situate] more of [said] **such** lands and other property **are located** than in any other county; provided, that in the event any work is to be done upon any navigable stream, the consent of the federal government shall be obtained to make such improvement or improvements before the actual work on the improvements shall be begun.

245.060. Within thirty days after any levee district shall have been organized and incorporated under the provisions of section 245.025 the circuit clerk of the court organizing [said] **such** district shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are [situate] **located**, the last insertion to be at least ten days before the day of such meeting, call a meeting of the owners of real estate or other property [situate] **located** in [said] **such** district, including the authorized representative of any corporation which owns real estate or other property [situate] **located** in [said] **such** district, at a day and hour specified in some public place in the county in which the district was organized, for the purpose of electing a board of five supervisors, to be composed of owners of real estate in [said] **the** district, which may include the authorized representative of any corporation which owns real estate or other property in [said] **the** district, two of whom at least shall be residents of the county or counties in which [said] **the** district is [situate] **located**, or some adjoining counties; the landowners, when assembled, shall organize by the election of a chairman and secretary of the meeting, who shall conduct the election; at such election each and every acre of land and each and every mile of right-of-way of every corporation owning a franchise in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way owned by him **or her** in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; and [said] **the** supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two, three, four and five years, and they

shall serve until their successors shall have been elected and qualified; provided, that if the levee district be located **wholly** within a third or fourth class city of this state, or within any city in this state under fifty thousand population operating under a special charter then the owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court creating and incorporating [said] **such** levee district, shall be entitled to one vote, in person or by proxy, for each lot, tract, parcel or subdivision thereof, owned by him **or her**.

245.095. 1. In order to effect the leveeing, protection and reclamation of the land and other property in the district subject to tax, the board of supervisors is authorized and empowered to straighten, widen, change the course and line of any levee in or out of [said] **such** district; to fill up any creek, drain, channel, river, watercourse or natural stream; and to divert or divide the flow of water in or out of [said] **the** district; to construct and maintain sewers, levees, dikes, dams, sluices, revetments, drainage ditches, pumping stations, syphons and any other works and improvements deemed necessary to preserve and maintain the works in or out of [said] **the** district; to construct roadways over levees and embankments; to construct any and all of [said] **such** works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill or cut in or out of [said] **the** district; to remove any fence, building or other improvements in or out of [said] **the** district, and shall have the right to hold, control and acquire by donation or purchase, and if need be, condemn any land, easement, railroad or other right-of-way, sluice or franchise in or out of [said] **the** district for right-of-way, or for any of the purposes herein provided, or for material to be used in constructing and maintaining [said] **such** works and improvements for leveeing, protecting and reclaiming the lands in [said] **the** district. [Said] **The** board shall also have the right to condemn for the use of the district, any land or property within or without [said] **the** district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages and shall follow the procedure that is now provided by law for the appropriation of land or other property taken for telegraph, telephone and railroad rights-of-way.

2. In addition to the powers granted in subsection 1 of this section, in any levee district formed under the laws of this state having an assessed valuation of real property of twenty-five million dollars or greater and located, in whole or in part, in any county with a charter form of government and with more than one million inhabitants, the board of supervisors is authorized to construct and maintain waterlines and any other works and improvements deemed necessary to preserve and maintain the works in or out of the district.

246.305. 1. In any levee district formed pursuant to the laws of this state having assessed valuation of real property of twenty-five million dollars or greater, which is located in whole or in part in a county [having over nine hundred thousand in population] **with a charter form of government and with more than one million inhabitants** according

to the last decennial census, the board of supervisors may by order, resolution or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the following alternative [procedures] **procedure** with respect to voting rights [and apportionment of installment taxes]:

[(1)] voting by landowners of the levee district shall be determined on the basis of the assessed benefits of the property owned and the owner of each piece of property shall receive one vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of property are below ten thousand dollars, the owner shall be entitled to one vote[;].

[(2)] **2. In any levee district formed under the laws of this state, the board of supervisors may, by order, resolution, or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the procedure in this subsection with respect to the apportionment of installment taxes.** After the making of a readjustment of the assessment of benefits pursuant to section 245.197, RSMo, then the board of supervisors shall reapportion and levy on each tract of land or other property in the district the taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue on such bonds shall be included and added to said taxes as reapportioned and levied based upon the benefits assessed as readjusted. The secretary of the board of supervisors, as soon as said tax has been reapportioned, shall, at the expense of the district, prepare a list of all taxes as reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted Levee Tax Record of District", which endorsement shall also be printed or written at the top of each page of said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of [said] **the** secretary. The [said] board of supervisors shall each year thereafter determine, order and levy the amount of the annual installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based upon such reapportionment, which shall in all other respects be due and collected as provided in section 245.185, RSMo.